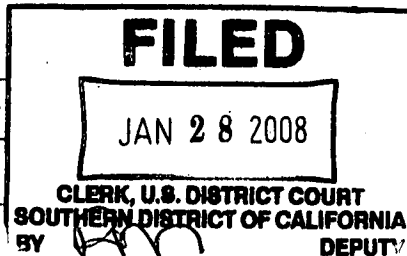


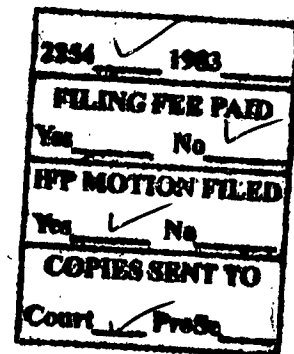
Name NATHAN TURNER
 Address POST OFFICE BOX 8503
COALINGA, CA 93210

CDC or ID Number C-44886



MC-275

IN THE SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF FRESNO
 (Court)



NATHAN TURNER
 Petitioner

vs.

JAMES A. YATES (WARDEN)
 Respondent

PETITION FOR WRIT OF HABEAS CORPUS

'08 CV 0181 IEG LSP

No.

(To be supplied by the Clerk of the Court)

INSTRUCTIONS—READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rule 60 of the California Rules of Court [as amended effective January 1, 2005]. Subsequent amendments to Rule 60 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

This petition concerns:

- ☐ A conviction ☐ Parole
☐ A sentence ☒ Credits
☐ Jail or prison conditions ☒ Prison discipline
☐ Other (specify): _____

1. Your name: NATHAN TURNER
2. Where are you incarcerated? CALIFORNIA CORRECTIONAL INSTITUTION, TEHACHAPI, CALIF.
3. Why are you in custody? ☒ Criminal Conviction ☐ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

- a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

N/A

- b. Penal or other code sections: N/A

- c. Name and location of sentencing or committing court: N/A

- d. Case number: N/A

- e. Date convicted or committed: N/A

- f. Date sentenced: N/A

- g. Length of sentence: N/A

- h. When do you expect to be released? N/A

- i. Were you represented by counsel in the trial court? ☒ Yes. ☐ No. If yes, state the attorney's name and address:

N/A

4. What was the LAST plea you entered? (check one)

☒ Not guilty ☐ Guilty ☐ Nolo Contendere ☐ Other: _____

5. If you pleaded not guilty, what kind of trial did you have?

☒ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

PETITIONER WAS DENIED THE RIGHT TO PRESENT A DEFENSE (OR THE RIGHT TO
PRESENT DEFENSE WITNESS; OR THE DEFENSE VERSION OF THE FACTS).

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

(SEE ATTACHED MEMORANDUM POINTS AND AUTHORITIES)

b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

Penal Code Section § 290.2; California Code of Regulations tit. 15.

Section § 3025, § 3030. Department Operations Manual (D.O.M.) Section

§ 52080.5.1; 52080.5.2; 52080.5.3; 52080.5.3; 52080.8; 52080.9.3.

SEE Exhibit-E, F, G, H).

7. Ground 2 or Ground _____ (if applicable):

PETITIONER WAS FOUND GUILTY ON THE BASIS OF OUTRAGEOUS GOVERNMENT
MISCONDUCT.

a. Supporting facts:

(SEE ATTACHED MEMORANDUM POINTS AND AUTHORITIES)

b. Supporting cases, rules, or other authority:

Wolff v. McDonnell, 18 U.S. 539, 94 S.Ct. 2963 (1974).

Palmigiano v. Baxter, 510 F. 2d. 534 (1st Cir. 1974)

8. Did you appeal from the conviction, sentence, or commitment? ☐ Yes. ☐ No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

N/A

b. Result: N/A c. Date of decision:

d. Case number or citation of opinion, if known: N/A

e. Issues raised: (1) N/A

(2) N/A

(3) N/A

f. Were you represented by counsel on appeal? ☒ Yes. ☐ No. If yes, state the attorney's name and address, if known:

N/A

9. Did you seek review in the California Supreme Court? ☒ Yes. ☐ No. If yes, give the following information:

a. Result: N/A b. Date of decision:

c. Case number or citation of opinion, if known: N/A

d. Issues raised: (1) N/A

(2) N/A

(3) N/A

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

N/A

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

(SEE ATTACHED MEMORANDUM POINTS AND AUTHORITIES)

See Exhibit - A

b. Did you seek the highest level of administrative review available? ☒ Yes. ☐ No.

Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you filed, or other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? ☐ Yes. If yes, continue with number 13. ☐ No. If no, skip to number 15.

13. a. (1) Name of court: N/A

(2) Nature of proceeding (for example, "habeas corpus petition"): N/A

(3) Issues raised: (a) N/A

(b) N/A

(4) Result (Attach order or explain why unavailable): N/A

(5) Date of decision: N/A

b. (1) Name of court: N/A

(2) Nature of proceeding: N/A

(3) Issues raised: (a) N/A

(b) N/A

(4) Result (Attach order or explain why unavailable): N/A

(5) Date of decision: N/A

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:
N/A

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

17. Do you have any petition, appeal, or other matter pending in any court? ☒ Yes. ☐ No. If yes, explain:

MOTION FOR RESENTENCING

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

THIS IS THE LOWER COURT

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: JUNE 2007

Nathan Lucero
(SIGNATURE OF PETITIONER)

PROOF OF SERVICE BY MAIL

I, NATHAN TURNER, declare:

I am at least 18 years of age, and a party / am not a party to the attached herein cause of action. My mailing address is: C-44886 -
C2-125, Post Office Box 8503, Cell C2-125,
Coalinga, Ca 93210-8503.

On June, 2007 I delivered to prison officials at Pleasant Valley State Prison at the above address the following documents for mailing via the United States Mail.

1. (1) original writ of habeas Corpus with Supplemental
2. MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
3. THEREOF

In a sealed envelope(s) with postage fully prepaid, addressed to:

1. SUPERIOR COURT COUNTY OF FRESNO
1100 VAN NESS AVENUE FRESNO CALIFORNIA 9
2. ATTORNEY GENERAL
POST OFFICE BOX 944255 SACRAMENTO CALIFORNIA 94244

3. _____
4. _____
5. _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of June, 2007 at Coalinga, Ca.

Nathan Turner
Declarant / Petitioner IN PRO PER